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OFFICE OF PETITIONS

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ONE INTERNATIONAL PLACE
BOSTON MA 02110

In re Patent No. 7,555,455
Issued: June 30, 2009
Application No. 10/026,358
Filed: December 24, 2001
Dkt. No.: MAX-003

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on August 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1895 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The above-identified application matured into U.S. Patent No. 7,555,455 on June 30, 2009. The patent issued with a patent term adjustment of 1447 days. Patentees assert that the patent is entitled to an overall patent term adjustment of 1895 days.

The patent is entitled to an overall adjustment of 1894 days. The period of adjustment pursuant to 37 CFR 1.702(b) is 1285 days and not 1286 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on December 25, 2004 and ended July 1, 2008, the day before the RCE was filed, and not July 2, 2008. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 1285 days.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 1894 days (1621 days pursuant to 37 CFR 1.702(a) + 1285 days pursuant to 37 CFR 1.702(b) – 838 overlapping days pursuant to 37 CFR 1.703(f) - 174 days pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1894 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,555,455

DATED : June 30, 2009

DRAFT

INVENTOR(S) : Agarwal, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1447 days

Delete the phrase "by 1447 days" and insert – by 1894 days--